

### **REMARKS**

Claims 28–43 are pending.

Claims 28–31 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6,649,480. Applicants submit that this rejection is overcome by the enclosed Terminal Disclaimer. A check to cover the requisite fee is enclosed. Applicants note that, in contrast to claim 1 of U.S. Patent No. 6,649,480, claims 28–31 do not recite a planarized surface.

Claims 32–43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 40 and 42 of application 10/005274. Applicants note that application 10/005274 has been abandoned, and no pending applications or issued patents claim priority to application 10/005274. The double patenting rejection in view of application 10/005274, therefore, is improper. Applicants request that this rejection be withdrawn.

### **CONCLUSION**

In light of the foregoing, Applicants respectfully submit that all claims are now in condition for allowance.

A supplemental Information Disclosure Statement with a 1449 Form and a \$180 check for the filing fee is being submitted with this paper. Applicants request the Examiner to initial and return a copy of the 1449 Form.


A check for \$110 for the disclaimer fee under 37 CFR 1.20(d) is submitted. Applicants believe that no other fee is due for this Amendment and Response to be entered and considered. However, please consider this a conditional petition for the proper extension, if one is required, and a conditional authorization to charge any related extension fees or other fees necessary for entry of this paper to Deposit Account No. 20-0531.

Respectfully submitted,

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